

Application No. 10/699,422  
Amendment dated October 13, 2005  
Reply to Office Action of July 13, 2005

### **REMARKS**

This Amendment is submitted in response to the Office Action mailed July 13, 2005. Claims 1-17, 24-30 and 32-35 remain pending in the application prior to this amendment. Claims 1, 2, 5, 8, 9, 12, 15-17, 24, 25, 29, 30, 34 and 35 stand rejected. Claims 3, 4, 6, 7, 10, 11, 13, 14, 27, 28, 32, and 33 were withdrawn in response to a restriction requirement. Claim 35 has been cancelled by this amendment. Applicants assert that the pending claims are in complete condition for allowance and respectfully request reconsideration in view of the following remarks.

### **Objections to the Claims**

The Examiner indicates that claims 24, 26, 29 and 31 would be objected to as duplicative of claims 2, 5, 9 and 12, respectively, if claims 2, 5, 9 and 12 are allowed. Applicants note that claims 26 and 31 were cancelled by the amendment filed April 4, 2005. Accordingly, Applicants respectfully request that the objections to at least claims 5 and 12 be withdrawn.

Applicants further maintain that claims 2, 9, 24 and 29 are not duplicative for the reasons set forth in the April 4 amendment, but reserve further argument regarding this position pending the indication of allowance of these claims.

### **Claims Rejected Under 35 U.S.C. §102**

Claim 35 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,722,168 to Heaney. Claims 34 and 35 stand rejected under 35

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U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,035,604 to Gutsaffson. Claim 35 has been cancelled herein without prejudice.

Applicants respectfully traverse the rejection of claim 34 over Gutsaffson '604 because Gutsaffson '604 does not teach or suggest each and every element recited in claim 34. Specifically, Gutsaffson '604 does not teach or suggest:

a first sensor;

a second sensor adjacent said first sensor;

said first sensor configured to sense the presence of successive heating elements proximate said second sensor as the heating elements move past said sensors along the predefined path

as recited in claim 34. Rather, first sensor 92 and second sensor 93 of Gutsaffson '604, noted by the Examiner, are spaced sufficiently far apart that first sensor 92 can only sense the presence of a heating element when the heating element is proximate the first sensor 92, as depicted in Fig. 8, and not when the heating element has traveled along the chain conveyor 11 such that it is proximate the second sensor 93, as depicted in Fig. 9. The device of Gutsaffson '604 is therefore configured such that if conveyor 11 is stopped, or if jaw 13 is somehow thrown off track prior to jaw 13 passing over second sensor 93, the first sensor 92 would have already sensed the presence of jaw 13, but jaw 13 would not have yet reached the second sensor 93. Accordingly, the apparatus of Gutsaffson '604 is not configured such that the first sensor 92 can sense the presence of heating elements proximate the second sensor 93 as the heating elements

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move past the second sensor 93. For at least these reasons, Applicants respectfully request that the rejection of claim 24 over Gutsaffson '604 be withdrawn.

**Claims Rejected Under 35 U.S.C. §103**

Claims 1, 2, 5, 8, 9, 12, 15-17, 24, 25, 29 and 30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,678,390 to Pruett et al. in view of Heaney '168 and Gutsaffson '604. Claims 1 and 8 are the only independent claims of this rejected group and each recites:

a first sensor configured to sense the presence of the heating element as the heating element moves past the first sensor;

a second sensor mounted to allow movement of the heating element relative thereto and configured to sense a temperature associated with the heating element when said first sensor senses the presence of the heating element.

Applicants respectfully traverse the rejections of claims 1 and 8 because Pruett '390 does not teach or suggest each and every element recited in these claims, as admitted by the Examiner, and because the combination of Pruett '390 with Heaney '168 and Gutsaffson '604 fails to cure these deficiencies. Specifically, the Examiner admits that Pruett '390 fails to teach or suggest "a first sensor (position resolver 47) configured to sense the presence of the heating element as the heating element moves past the first sensor, or that the controller additionally interacts based on this first sensor information, or that the second sensor is mounted to allow movement of the heating

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element relative thereto and operates when the first sensor senses the presence of the heating element." (Office Action mailed July 13, 2005, at page 6.)

Heaney '168 is directed to a high speed wrapping machine having a cut/seal head position sensor resolver (resolver 47) which constantly monitors the rotation of drive motor shaft 41 to indirectly determine the angular positions of cut/seal heads 17, 18 based on the rotation of the drive shaft of motor 41. Accordingly, the resolver of Heaney '168 does not sense the presence of a heating element as it moves past a sensor. Rather, the angular positions of cut/seal heads 17, 18 are continuously calculated as a function of the drive shaft rotation. Moreover, temperature sensors 66 of Heaney '168 are fixed directly to the cut/seal heads 17, 18 and are therefore not "mounted to allow movement of the heating element relative thereto," and do not "sense a temperature associated with the heating element when said first sensor senses the presence of the heating element." Instead, the sensors 66 move with the cut/seal heads 17, 18 and constantly monitor the temperature as they move with the cut/seal heads 17, 18. Heaney '168, therefore, does not teach or suggest a modification of Pruett '390 that would result in the claimed invention.

Gutsaffson '604 also does not teach or suggest a modification of Pruett '390 that results in the claimed invention. Specifically, the first sensor 92 of Gutsaffson '604 cannot sense the presence of jaw 13 as it passes second sensor 93, and therefore the second sensor 93 is not configured to sense a temperature associated with a heating element when the first sensor 92 senses the presence of the heating element, as discussed above.

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Applicants further assert that there is no motivation to even combine Heaney '168 or Gutsaffson '604 with Pruett '390, as alleged by the Examiner. Specifically, the apparatus of Pruett '390 uses timing gears 44, 45 on the respective shafts 31, 35 to ensure that the shafts rotate at a fixed 1:1 ratio, so that the sealing and crimping assemblies 22, 23 are fixed in position as they counter-rotate parallel to one another (see Pruett '390 at column 7, lines 16-23). There is no need to add the resolver of Heaney '168 or first and second sensors of Gutsaffson '604 to the system of Pruett '390, as this would be redundant. For at least these reasons, Applicants respectfully request that the rejections of claims 1 and 8 over the combination of Pruett '390, Heaney '168 and Gutsaffson '604 be withdrawn.

Claims 2, 5, 24 and 25 each depend from independent claim 1, and claims 9, 12, 15-17, 29 and 30 each depend from independent claim 8. Accordingly, these claims are in condition for allowance for at least the reasons stated above for claims 1 and 8 and Applicants respectfully request that the rejections of claims 2, 5, 9, 12, 15-17, 24, 25, 29 and 30 over the combination of Pruett '390, Heaney '168 and Gutsaffson '604 be withdrawn.

In view of the foregoing amendments to the claims and remarks given herein, Applicants respectfully believe this case is in condition for allowance and respectfully request allowance of the pending claims. If the Examiner believes any matter requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

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Applicants are of the opinion that no additional fee is due as a result of this amendment. If any charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

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